

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DISTRICT

- - - - - x
:
UNITED STATES OF AMERICA, :
:
v. : Criminal No. 1996-00187
:
LUIS NELSON GAMBOA, et al, :
:
Defendants. : Greenbelt, Maryland
:
- - - - - x February 27, 1997

HEARING

BEFORE: THE HONORABLE PETER J . MESSITTE, Judge

APPEARANCES: DEBORAH JOHNSTON, Esq.
Office of the United States Attorney
6500 Cherrywood Lane,
Suite 400
Greenbelt, MD 20770
On Behalf of the Government

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On Behalf of the Defendant

MARLENA BARRETT, Postal Inspector

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Keynote: "---" indicates inaudible in transcript.

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1 P R O C E E D I N G S

2 THE CLERK: PJM-96-0187, United States of America
3 versus Luis Nelson Gamboa. The matter is now ---

4 THE COURT: All right, counsel, identify yourselves,
5 the Government and then the defendant.

6 MS. JOHNSTON: Good afternoon, Your Honor, Deborah
7 Johnston on behalf of the Government. Seated with me at
8 counsel table is postal inspector, Marlana Barrett.

9 THE COURT: All right. Defendant?

10 MR. BITTNER: Your Honor, good afternoon, may I
11 please the Court, Richard Bittner on behalf of Luis Nelson
12 Gamboa who is present.

13 THE COURT: All right. I understand we have a plea
14 agreement. Please swear the defendant.

15 (Whereupon, the defendant was sworn.)

16 THE DEFENDANT: Yes, I do.

17 THE COURT: All right, please have a seat sir and
18 tell me your name. Have a seat. Tell me your name.

19 THE DEFENDANT: Luis Nelson Gamboa.

20 THE COURT: Your age, sir?

21 MR. BITTNER: Your Honor, Mr. Gamboa has a
22 hearing --

23 THE COURT: All right, I will speak loudly. Tell me
24 your age?

25 THE DEFENDANT: 49 years old.

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1 THE COURT: All right, would it be easier for you to
2 stand up, you don't have to -- you can sit down. What is your
3 home address?

4 THE DEFENDANT: 3704 Bradbury(sic) Street, Silver
5 Spring, Maryland.

6 THE COURT: Are you married or single?

7 THE DEFENDANT: Married.

8 THE COURT: Do you live with your wife?

9 THE DEFENDANT: I live with my wife.

10 THE COURT: Do you have any children?

11 THE DEFENDANT: Four children.

12 THE COURT: And they are all with you?

13 THE DEFENDANT: They are with me.

14 THE COURT: What is your occupation?

15 THE DEFENDANT: I am a self employed paint
16 contractor.

17 THE COURT: All right, do you have a company?

18 THE DEFENDANT: Yes.

19 THE COURT: Is there a name for your company?

20 THE DEFENDANT: Nelson Gamboa Decorating.

21 THE COURT: Where are you located -- at your home
22 address?

23 THE DEFENDANT: The same location.

24 THE COURT: How far did you go in school? What
25 grade?

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1 THE DEFENDANT: I went to sixth grade.

2 THE COURT: Are you an American citizen? Are you an
3 American citizen?

4 THE DEFENDANT: Just resident.

5 THE COURT: Are you under the influence of any kind
6 of alcohol or drug this afternoon?

7 THE DEFENDANT: No, sir.

8 THE COURT: All right. Now, Mr. Gamboa, you have
9 been charged with a number of criminal offenses primarily mail
10 fraud, do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Have you seen the document entitled
13 "Indictment" that charges you with these offenses? There is a
14 document that charges you with a number -- 14 different
15 charges?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you seen that document?

18 THE DEFENDANT: Yes.

19 THE COURT: Did you go over it with Mr. Bittner?

20 THE DEFENDANT: Yes.

21 THE COURT: Basically I am not going to go over
22 every one in detail but basically it says that you were in a
23 conspiracy with -- sorry, you were involved with a number of
24 other individuals involved with mail fraud and those
25 individuals included Nicholas Cardenas, Miguel Gamboa, Teodora

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1 Etienne, Alejandra Rojas, Percy Richard Cardenas and Ivan
2 Gonzalez, do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: And the charges are in 14 different
5 charges that each of you in one fashion or another, either
6 directly or aiding and abetting the others, caused the
7 insurance companies to make certain payments that you were not
8 entitled to, do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Just so that you look through and see, I
11 won't give all of the particulars but if you look at in the
12 indictment, count 1, deals with a transaction that occurred on
13 or about June 21, 1991. And involved a letter to Joel Skirble
14 of Frontier Adjuster in Towson, Maryland. Count 2 deals with a
15 transaction on or about September 5, 1991, involving a letter
16 to Melissa Posey of Hartford Insurance of Greenbelt.

17 Count 3 deals with a letter to Helen Kelly of
18 Nationwide Insurance in Greenbelt on or about June 19, 1991.
19 Count 4 says sometime in September of 1991, there were
20 directions that had a letter sent from Nationwide Insurance to
21 Nelson Gamboa and Edward Bow.

22 Count 5 says on or about December 2, there was a
23 letter sent to Kirk Hoffer, at Allstate Insurance in Columbia,
24 Maryland. Count 6, on or about March 19, 1993, there was a
25 letter from Kirk Hoffer sent to Alejandro Rojas and Edward Bow.

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1 Count 7, says on or about March 19, 1993, there was a letter
2 addressed to Miguel Gamboa and Edward Bow from Kirk Hoffer,
3 Allstate Insurance in Columbia.

4 Count 8, on or about May 24, 1993, a letter was
5 addressed to Mr. Neilson Marcenak, Progressive Insurance
6 Company, Baltimore. Count 9, on or about February 18, 1993, a
7 letter was addressed to Allstate in Roanoke, Virginia from
8 suburban Maryland.

9 Count 10, on or about March 26, 1993, a letter was
10 caused to be sent from Lisa Harrington, Allstate Insurance
11 Baltimore. Count 11, on or about April 2, 1993, a letter was
12 placed in the mail to Marlene J. Stetsman at Maryland
13 Automobile Insurance Fund or MAIF in Annapolis.

14 Count 12, on or about July 28, 1993, a letter was
15 addressed to Laura Newman, General Accident Insurance,
16 Gaithersburg. Count 13, on or about September 30, 1992, a
17 letter was addressed to Ms. Willett(sic) Bell, at Maryland
18 Automobile Insurance Fund Annapolis.

19 Count 14, was -- there was caused to be a letter
20 sent to Teodora Etienne and Rudolfo Ramos from Ms. Willett Bell
21 of MAIF in Annapolis. Do you see all of those charges?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand you are charged in
24 each of those counts, do you understand that? All right. Now
25 earlier in these proceedings, you appeared and entered a not

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1 guilty plea, is that correct?

2 THE DEFENDANT: Yes.

3 THE COURT: And I understand now you have reached an
4 agreement with the Government whereby you are prepared to enter
5 a guilty plea to is it just one count?

6 MS. JOHNSTON: Yes, Your Honor.

7 THE COURT: Count 12, is that correct?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And is that the plea that you are
10 prepared to enter at this time, a guilty plea to count 12?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right and it is your understanding
13 that the Government will not prosecute you on the other
14 charges, is that correct?

15 THE DEFENDANT: Yes.

16 THE COURT: I have in front of me, a letter
17 addressed to Mr. Bittner, dated January 15, 1997, it consists
18 of seven pages. On the sixth and seventh pages there are
19 signature lines for Ms. Johnston, for Luis Nelson Gamboa and
20 Richard C. Bittner, Esquire, is that your agreement with the
21 Government regarding the plea?

22 THE DEFENDANT: ---

23 THE COURT: Is that document the agreement with the
24 Government? Do you have a copy of that document?

25 MR. BITTNER: Yes, Your Honor.

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1 THE COURT: Would you look at it and see if that is
2 the plea agreement you reached with the Government?

3 MR. BITTNER: Yes, Your Honor.

4 THE COURT: All right, I have the original of the
5 document here. I am going to ask Ms. Johnston now to state
6 what the basic terms of the agreement are, because I need to
7 know that you know what they are and then I am going to ask you
8 whether that constitutes the agreement as you understand it.
9 And whether there are any other promises that I haven't heard
10 about. Do you understand?

11 THE DEFENDANT: Yes.

12 THE COURT: Ms. Johnston?

13 MS. JOHNSTON: Yes, Your Honor. The substance of
14 the plea agreement is as follows. Mr. Luis Gamboa agrees to
15 plead guilty to count 12 of the indictment pending against him
16 in which he is charged with mail fraud, a violation of 18 USC
17 Section 1341. He understands that the maximum sentence for
18 this offense is imprisonment of not more than 5 years followed
19 by a term of supervised release of not more than 3 years and a
20 fine of \$250,000.

21 He also understands that he must pay \$50 as a
22 special assessment which will be due at the time of sentencing.
23 Furthermore, he understands that the Court may order him to
24 make restitution. He also understands that under the terms of
25 this agreement, that he has agreed to cooperate with the United

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1 State's Attorney's office and the terms and conditions of this
2 cooperation are as follows.

3 He must fully and truthfully respond to all
4 questions put to him by federal law enforcement authorities.
5 He must fully and truthfully disclose to the Government
6 everything that he knows about this scheme to defraud which is
7 described in the indictment to which he has entered his guilty
8 plea.

9 And he must also disclose anything he knows about
10 any other matters as to which the Government may choose to
11 inquire. His cooperation includes not only complete disclosure
12 of information that he has but he must also testify fully and
13 truthfully before all grand juries and at all trials in cases
14 in which his testimony might be relevant.

15 He also is required not to commit any offense in
16 violation of federal, state or local laws between the date of
17 this agreement and his sentencing in this case. He further
18 understands that he -- that a sentencing guideline range will
19 be determined by the Court. That the Court will impose a
20 sentence within that guideline range unless the Court finds
21 that there is a basis for a departure because there exists an
22 aggravating or mitigating circumstance of a degree or kind not
23 contemplated by the sentencing commission.

24 Further the agreement provides that the Government
25 and the defendant agree and stipulate to the following

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1 applicable sentencing guideline factors. First the parties
2 agree and stipulate that the base offense level is 6. And that
3 that base offense level is increased by 7 levels because the
4 fraud loss cause or foreseen by the defendant exceeds by
5 \$125,000.

6 Furthermore the parties agree or stipulate that the
7 offense involve more than minimal planning or a scheme to
8 defraud more than one victim and therefore an enhancement of
9 two additional levels is applicable. The parties further agree
10 and stipulate that the offense level shall be increased by an
11 additional two levels for the defendant's role as an organizer
12 or leader pursuant to 3(B)1.1 (c).

13 This results in an adjusted offense level, the
14 parties stipulate of 17. Because the defendant has accepted
15 his responsibility for his conduct, the parties stipulate that
16 he is entitled to a three level reduction in the criminal
17 offense level resulting in a criminal offense level of 14.

18 The defendant understands that if he provides
19 substantial assistance in the investigation of the prosecution
20 of others, the Government will move under 5(K)1.1 of the
21 sentencing guidelines for a downward departure of two levels.
22 The defendant understands that under this agreement, the
23 Government has the sole discretion in determining whether he
24 has provided such substantial assistance and therefore, whether
25 the motion for the downward departure under 5(K)1.1, should be

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1 made.

2 Both parties understand that neither the U.S.
3 Probation office or the Court is bound by this stipulation and
4 that the Court will at sentencing with the aide of a pre-
5 sentence report, determine the relevant factors as to
6 sentencing. The defendant understands that if the Court
7 determines factors different from those contained in the
8 stipulation, he will not be allowed to withdraw his guilty
9 plea.

10 The defendant also understands there is no agreement
11 as to his criminal history or criminal history category and
12 that the criminal history could alter his offense level if the
13 offense was part of a pattern of criminal conduct from which he
14 derived a substantial portion of his income.

15 The defendant also understands that if he engages in
16 any conduct after the date of this agreement which would
17 justify finding of obstruction of justice under 3© 1.1, then
18 the Government would be relieved of its responsibilities under
19 the terms of this agreement, the defendant however would not be
20 allowed to withdraw his guilty plea.

21 If the defendant fulfills all of his obligations, he
22 understands that at the time of sentencing, the Government will
23 bring to the Court's attention, the nature and extent of his
24 cooperation and testimony. At that time of sentencing, the
25 Government pursuant to the terms previously discussed, that is

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1 if the Government determines that he has provided substantial
2 assistance, then the Government will move for a downward
3 departure from the guidelines pursuant to 5(K)1.1.

4 Furthermore the Government will move to dismiss all
5 counts of the indictment against him other than the counts to
6 which he has entered his plea. And at sentencing, the
7 Government will recommend a sentence at the low end of the
8 guidelines range provided the Court determines that criminal
9 offense level to be at least a level 12.

10 The Government also agrees that the Government will
11 not use the information that the defendant discloses to it
12 under the terms of this agreement against him, either directly
13 or indirectly. In this case or any other criminal case except
14 should he violate the condition of this agreement as set forth
15 in paragraph 13 and 14.

16 In regards to the right to appeal, the defendant and
17 the Government have agreed to waive their right to appeal,
18 reserving only the right to appeal from a sentence resulting
19 from an adjusted base offense level greater than 14 or less
20 than 12. I believe that -- in addition the defendant agrees
21 and waives his right to -- any rights under the Speedy Trial
22 Act and understands that a sentencing may be delayed until his
23 cooperation has been completed so that at sentencing, all
24 relevant information can be provided to the Court. I believe
25 that is the substance of the plea agreement.

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1 THE COURT: Mr. Bittner, does that basically set
2 forth your understanding?

3 MR. BITTNER: Your Honor, that is our understanding
4 of the agreement. The only other matter that we had discussed
5 with the Government was contained by way of a letter to me by
6 Ms. Johnston would be that the Government and the defendant at
7 sentencing would recommend that Mr. Gamboa be allowed to
8 report, voluntarily surrender himself to begin the imposition
9 of the sentence. Other than that, that is an accurate
10 statement of the agreement.

11 THE COURT: Okay, there are a couple of matters,
12 Mr. Gamboa, I want to go over with you. First of all, do you
13 understand that the maximum statutory penalty for the offense
14 that you are pleading to is not more than five years
15 imprisonment and a term of supervised release of not more than
16 3 years and a fine of up to \$250,000. Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: And the Court may also -- is there any
19 sort of restitution to be imposed, there would be.

20 MS. JOHNSTON: There will be an issue of
21 restitution.

22 THE COURT: The Court may also then impose in
23 addition to a fine, any restitution amount that the Court deems
24 appropriate, do you understand that?

25 THE DEFENDANT: Yes, sir.

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1 THE COURT: In other words, you will have to pay
2 back money that was illegally taken is that clear?

3 THE DEFENDANT: ---

4 MR. BITTNER: You will have to pay back any money
5 that was illegally taken.

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that I can impose that
8 as part of your penalty?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. Now, there has been some
11 reference to sentencing guidelines, have you talked about
12 sentencing guidelines with Mr. Bittner?

13 THE DEFENDANT: Yes.

14 THE COURT: You understand that this is a table that
15 indicates the range of incarceration and the range of
16 supervised release and the range of fine in given cases, do you
17 understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And you get a score depending on the
20 nature of the offense, how aggravated it is and or not
21 aggravated and then you get a score based on your own criminal
22 history, do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: And what those two calculations then,
25 the Court is lead to a certain range of time would be

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1 appropriate as a sentence in your case, do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: And you understand that I can't finally
4 determine what the guideline range in your case will be until
5 after the pre-sentence report is prepared, is that clear? You
6 have to answer because you are on tape -- I think we are on
7 tape.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Now further you understand that
10 depending on the circumstances, I may be able to go outside the
11 guidelines that is more severe than the guidelines show, do you
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you would not for that reason be
15 able to withdraw your plea, do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And even if I give a sentence that is
18 more severe than you expect, or more severe than the Government
19 recommends, you still can't withdraw your plea for that reason,
20 do you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. There would be in this case
23 a \$50 special assessment as well at the time of sentencing. Do
24 you understand that you are not required to plead guilty? You
25 are not required to plead guilty, do you understand that?

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1 THE DEFENDANT: Yes.

2 THE COURT: You could plead not guilty and the
3 Government would then have to prove you guilty, do you
4 understand that?

5 THE DEFENDANT: I understand.

6 THE COURT: All right, it would have to prove you
7 guilty beyond a reasonable doubt which is a heavy burden, is
8 that clear?

9 THE DEFENDANT: Yes, it is.

10 THE COURT: Do you understand that by pleading
11 guilty, you will be admitting that you committed this offense?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are you on any sort of parole or
14 probation or supervised release apart from this case?

15 THE DEFENDANT: No, sir.

16 THE COURT: You understand that there are certain
17 rights you give up when you plead guilty? I am going to go
18 over those with you at this time. You have the right to a
19 jury trial where 12 people would be selected randomly from the
20 voter list of the state. Your attorney could ask questions to
21 assure that they would be fair and impartial.

22 Each of those jurors would have to be convinced that
23 you were guilty beyond a reasonable doubt before you could be
24 found guilty, is that clear?

25 THE DEFENDANT: I understand sir.

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1 THE COURT: Or you could have a trial before a Judge
2 and the Judge would have to be convinced of your guilt beyond a
3 reasonable doubt before you could be found guilty. You would
4 have the assistance of -- you would have the right to an
5 assistance of an attorney throughout and if you couldn't afford
6 one, one could be provided for you at no cost.

7 You would be presumed innocent unless and until
8 proven guilty. You would not have to testify in a case. You
9 could not be made to testify and the prosecutor could not
10 comment on that fact to the Judge or jury. You would have a
11 right to confront and cross examine the Government's witnesses
12 and you could call your own witnesses. Is that clear?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You give up all of these rights when you
15 plead. Now Mr. Bittner, was there any basis for a motion to
16 suppress?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Let Mr. Bittner -- Mr. Bittner?

19 MR. BITTNER: No, Your Honor.

20 THE COURT: Just to be clear, Mr. Gamboa, if you
21 think the Government denied any of your rights as far as
22 seizing evidence illegally, taking a statement from you
23 illegally, delaying of the prosecution or whatever, you could
24 file motions before trial and the Judge will decide whether or
25 not your rights have been violated.

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1 The decision by the Judge could have some
2 consequence on your -- on the finding of guilt or innocence, do
3 you understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: That when you plead guilty, you give up
6 the right to challenge the legality of the Government's acts,
7 is that understood?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand then that by pleading
10 guilty, there won't be any further trial? You are waiving your
11 right to a further trial?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. And there was -- was there
14 not a waiver of appeal, Ms. Johnston?

15 MS. JOHNSTON: Your Honor, there was a waiver of
16 appeal with the reserving the right to appeal a sentence
17 resulting from an adjusted base offense level greater than 14
18 and less than 12.

19 THE COURT: All right. You have limited the right,
20 I see that -- you have limited your right of appeal to a
21 situation where your base offense level is either -- you do
22 have the right, if it is less than 12 and you have the right if
23 it is more than 14. Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: But if your base offense level is 14 or

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1 less, you have waived your right to appeal, do you understand
2 that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Is that something you are agreeable to?
5 Is that something that you have agreed to -- is that voluntary
6 on your part?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Now what I am going to do is
9 ask Ms. Johnston to recite the facts that the Government feels
10 it could prove if this matter went to trial. And after that, I
11 am going to ask you whether those facts are true and accurate.
12 You have been sworn to tell the truth under oath and so you
13 must answer honestly. If you don't, you will be subject to
14 prosecution for perjury or false statement. Do you understand
15 that?

16 THE DEFENDANT: Yes.

17 THE COURT: Ms. Johnston, in a loud voice.

18 MS. JOHNSTON: Your Honor, the parties have agreed
19 and stipulated to the following facts. The parties have also
20 agreed that these facts do not encompass all of the facts had
21 this matter gone to trial.

22 The facts are as follows. From January 1991 through
23 July 1994, Luis Nelson Gamboa, Teodora Etienne, Richard Percy
24 Cardenas and Nicholas Martin Cardenas were engaged in a scheme
25 to defraud insurance companies by staging and fabricating motor

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1 vehicle accidents and by having inflated and cost wage loss
2 claims for both actual and staged accidents.

3 In 1993, Ivan Gonzalez, Luis Nelson Gamboa, using
4 the alias of Luis Sanchez and Richard Percy Cardenas using the
5 alias of Carlos Zambora, fabricated a motor vehicle accident.
6 They claimed that they were in a vehicle which was being driven
7 by Ivan Gonzalez. Their vehicle was stopped at a traffic light
8 when it was struck in the rear by a vehicle owned and operated
9 by ANA Plumbing Service.

10 Gamboa, Cardenas and Gonzalez retained the services
11 of an attorney. On or about July 28, 1993, the attorney
12 mailed through the United States postal service, a letter to
13 Ms. Laura Newman, General Accident Insurance, located in
14 Gaithersburg, Maryland, notifying General Accident of this
15 accident and his client's fabricated claims for loss wages and
16 personal injuries.

17 In addition, the defendant participated as a
18 claimant or assisted with the preparation of false wage loss
19 statements in approximately 9 other accidents which resulted in
20 a total loss of the insurance carries in excess of \$120,000.

21 THE COURT: Is that an accurate statement,
22 Mr. Gamboa?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you want to add to that, Mr. Bittner?

25 MR. BITTNER: No, Your Honor.

1 THE COURT: Now with regard to the agreement that
2 you have made with the Government, has anybody threatened or
3 coerced you in any to agree to that? Mr. Gamboa, did anybody
4 threaten you or coerce you to get you to agree?

5 THE DEFENDANT: No.

6 THE COURT: Is the agreement entirely set forth in
7 this document and as recited by Ms. Johnston?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Are there any terms that I don't know
10 about other than what Mr. Bittner, that the Government is going
11 to recommend voluntarily surrender that I haven't been told
12 about?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: All right. Are you pleading guilty
15 because you are guilty and for no other reason?

16 THE DEFENDANT: Because I did it, Your Honor.

17 THE COURT: All right, is there anything that you
18 don't fully understand about these proceedings?

19 THE DEFENDANT: I understand.

20 THE COURT: Do you need to say anything to
21 Mr. Bittner or ask him a question?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: All right. Taking into account
24 everything said, do you still chose to plead guilty to this
25 charge?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right the Court finds that the
3 defendant's plea has been made knowingly and voluntarily and
4 the Court finds that there are sufficient facts to find
5 defendant guilty of the crime charged beyond a reasonable
6 doubt. The Court further finds that pursuant to sentencing
7 guidelines 6(B)1.2(A), the plea conforms to the purposes of
8 sentencing and the policies of the sentencing guidelines, and
9 adequately reflects the seriousness of the actual offense
10 behavior, the Court accepts the plea and enters a finding of
11 guilty.

12 The Court will embody the plea agreement in its
13 judgement and sentence. June 11 or 12, either way? June 11,
14 9:30 a.m.? All right. Any issue on bond? Prepared to
15 continue the defendant on present bond?

16 MS. JOHNSTON: We are prepared to continue on.

17 THE COURT: All right. Same terms and conditions
18 then, Mr. Bittner, if you will explain to your client.

19 MR. BITTNER: Yes, Your Honor.

20 THE COURT: I will see you back here then and I will
21 order a pre-sentence report.

22 (Whereupon, the hearing concluded.)
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C E R T I F I C A T E

I certify that the foregoing is a correct
transcript from electronic sound recording of the proceedings
in the above-entitled matter.

/s/ Lisa Contreras

Lisa Contreras

Certified Transcriber

Certificate No. CET**D-474

March 17, 2013

Date